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EXAMINER

VAN, QUANG T

ART UNIT PAPER NUMBER

3742

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/752,141

Applicant(s)

BERTUZZI ET AL.

Examiner

Quang T Van

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 19-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-18 and 27-29 is/are rejected.
- 7) ☒ Claim(s) 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant notes that he did not receive a phone call from Examiner requesting for an oral election. However, the Examiner attempted to call Applicant's representative on March 18, 2002, and the Examiner was unable to contact Mr. Stephen L. Grant. After a reason period of time elapsed, the Examiner wrote up the written restriction in lieu of a telephone restriction.
2. Applicant also argues "the Examiner has indicated that Invention II pertains to a process form the manufacture of railroad car side sheets. In point of fact, the applicant submits that only claims 1 (sic, cl. 19) and 20 pertain to such a process. Claims 21-26 pertain to a plasma arc cutting process. For that reason, applicant contends that Invention II is really claims 1-18 and 21-29". The Examiner disagrees. Even though claims 21-26 are plasma arc cutting process, the invention embodied in claims 21-26 is commensurate with the invention of claims 19 and 20, which is the process of cutting steel sheet. The "railroad car side sheet" of Invention II is a steel sheet. Thus, the method of cutting railroad side sheets is a method of cutting steel sheet. Therefore, claims 21-26 pertain to Group II (claims 19-26).
3. Applicant's election with traverse of Group I (claims 1-18 and 27-29) in Paper No. 5 is acknowledged. Non-elected claims 19-26 are withdrawn from consideration. The traversal is on the ground(s) that "the examiner's restriction requirement as not well taken" and "It is not clerar (sic, clear) to the applicant why copper and aluminum are not considered metal materials, as are iron, steel, lead, zinc, and many other materials". This is not found persuasive because the restriction between Group I (the apparatus)

and Group II (method) is the apparatus in Group I can used to another and materially different process, such as cutting aluminum sheet or copper sheet or cutting steel pipe or aluminum pipe or copper pipe, etc. Even though aluminum sheet, copper sheet, and steel sheet are metal materials, their metallurgical structures are totally different; thus, the powers apply for cutting these materials are totally different. Therefore, the requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "a first drive train" recited in claim 17 and "a second drive train" recited in claim 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The abstract of the disclosure is objected to because the term "cycled" recited in line 7 has a typo error and should be changed to "cycled". Correction is required. See MPEP § 608.01(b).

6. The term "a first drive **train**" recited in claim 17 and "a second drive **train**" recited in claim 18 are objected because they lack antecedent basis from specification. Correction is required.

***Claim Objections***

7. Claims 1-18 are objected to because of the following informalities: "by-pass" recited in claim 1, line 11 has a typo error and should be changed to "bypasses". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, "a first carriage" recited in line 2 is indefinite because it is unclear whether "a first carriage" is the same with "a first transfer carriage" which recited in claim 1 (also noted in claim 13, lines 2). Clarification is needed.

In claim 16, "said first carriage is movable between said unloading and loading positions while said first carriage is in said cutting position" recited at lines 1-2 is indefinite because it is unclear. How can said first carriage is movable said unloading and loading positions and can also in said cutting position at the same time? Clarification is needed.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 27-29 rejected under 35 U.S.C. 102(b) as being anticipated by Conley (US 4,633,055). Conley discloses a plasma cutting system comprising a plasma arc cutting head (36), said head being mounted to move in two directions (col. 3, line 18) to permit said cutting head (36) to cut profiles in a stationary planar workpiece (col. 4, lines 25); and a movable bed (12) for supporting a planar workpiece; the movable bed (12, 112) being movable to a cutting position (col. 3, lines 38-40) in which said cutting head (36) is operable to cut the workpiece; and the movable bed being operable to transport the workpiece away from the cutting head when cutting of the workpiece has ceased (113, figure 7).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-4, 6, 8-9, 12-13, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conley (US 4,633,055) in view of Corse (US 4,103,595).

Conley discloses substantially all features of the claimed invention except said path including a portion along which said carriage bypasses said cutting head. Corse discloses a cutting machine comprising a pathway including a portion along which said carriage bypasses said cutting head (col.4, lines 56-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Conley a pathway including a portion along which said carriage bypasses said cutting head as taught by Corse in order to skip the step of cutting the workpiece during the process.

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conley (US 4,633,055) in view of Corse (US 4,103,595) and further in view of Blackmon et al (US 6,222,155). Conley/Corse disclose substantially all features of the claimed invention except said venting system positioning below said cutting head. Blackmon discloses a venting system positioning below said cutting head (col. 6, lines 5-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Conley/ Corse a venting system positioning below said cutting head as taught by Blackmon in order to draw fumes away from said plasma cutting apparatus.

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conley (US 4,633,055) in view of Corse (US 4,103,595) and further in view of Dean (US 5,787,559). Conley/Corse disclose substantially all features of the claimed invention except a portion of said path being over-spanned by a movable crane. Dean discloses, figure 7, a portion of said path being over-spanned by a movable crane (col. 2, lines 25-

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26 and lines 65-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Conley/Corse a portion of said path being over-spanned by a movable crane as taught by Dean in order to move workpiece from/to the conveyor.

16. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conley (US 4,633,055) in view of Corse (US 4,103,595) and further in view of Hooper (US 3,866,892). Conley/Corse disclose substantially all features of the claimed invention except more than one cutting head operable to cut profiles in material. Hooper discloses more than one cutting head (9) operable to cut profiles in material (2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Conley/Corse more than one cutting head operable to cut profiles in material as taught by Hooper in order to reduce the actual cutting time.

17. Claims 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


18. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or suggest said first carriage is movable to said unloading position while said second carriage is in said cutting position as recited in claims 14-15.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Van whose telephone is 703-306-9162. The examiner can normally be reached 8:30 to 6:00 M-F.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3463.



QV

October 18, 2002



Quang Van

Patent Examiner

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